

Message Text

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ORIGIN L-02

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DRAFTED BY L/SCA:HRGAITHER:EDD

APPROVED BY L/M:KEMALMBORG

ARA/BC - MR. A. ISAACS

L/M - MR. C. BLAKESLEY

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R 021853Z JUN 75

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

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E.O. 11652: N/A

TAGS: PFOR, CI

SUBJECT: EXTRADITION TREATY NEGOTIATIONS -- CHILE

REF: (A) SANTIAGO 3584; (B) STATE 126437; (C) SANTIAGO 3617

1. REFS (A) AND (B) CROSSED IN TRANSMISSION.
2. DEPARTMENT HAS NOW RECEIVED ALL COMMENTS AND IS PREPARING FINAL INSTRUCTIONS TO EMBASSY RE CHANGES IN DRAFT TEXTS.
3. RE SPANISH TEXT SENT BY GAITHER TO STEVEN MAY 13, THIS TEXT WAS PRIMARILY FOR USE OF EMBASSY IN FACILITATING READING OF AGREEMENT REACHED FINAL DAY OF NEGOTIATIONS (APRIL 29) WHEREIN NUMEROUS CHANGES AGREED TO AND INSERTED BY PEN IN TEXT. ASSUME EMBASSY MADE COPY OF SPANISH LANGUAGE TEXT TRANSMITTED BY EMBASSY'S A-80 OF MAY 2, 1975. IF NOT, PLEASE SO INDICATE. SPANISH TEXT TRANSMITTED MAY 2 SHOULD BE CONSIDERED AS BASIC DOCUMENT AND DEPARTMENT'S CHANGES AND SUGGESTIONS WILL BE BASED ON THAT TEXT, NOT REPEAT NOT TEXT TRANSMITTED GAITHER TO STEVEN. SIMILARLY EMBASSY

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SHOULD BASE ITS COMPARISON OF NEW CHILEAN TEXT WITH TEXT OF

APRIL 29, SUPPLEMENTED WHERE NECESSARY WITH MAY 13 TEXT,
I.E. WHERE HAND-WRITTEN CHANGES NOT CLEAR.

4. AS INDICATED REF (B) NUMBER OF CHANGES IN SPANISH TEXT ARE SUBSTANTIAL. EMBASSY MAY WISH, AT ITS DISCRETION, TO LAY GROUNDWORK FOR THE NUMEROUS CHANGES. RATIONALE IS AS FOLLOWS: AFTER CONSULTATIONS WITH ARGENTINE AUTHORITIES SUBSEQUENT TO CHILEAN NEGOTIATIONS AND REVIEW UPON RETURN TO WASHINGTON OF GENERAL DIFFICULTIES THAT WE HAVE HAD IN EXTRADITION AREA, WE HAVE DETERMINED THAT A NUMBER OF THE PROBLEMS HAVE BEEN CAUSED BY TRANSLATION. DEPARTMENT IS THEREFORE DESIROUS THAT TEXTS BE AS CLOSELY ALIGNED AS FEASIBLE GIVEN DIFFERENCES IN LEGAL SYSTEMS AND TERMINOLOGY.

5. (BEGIN FYI.) PROBABLY THE MAJOR DIFFICULTY IS THAT THE NEGOTIATORS OF THE TREATIES HAVE GENERALLY BEEN LAWYERS WITH INTERNATIONAL LAW BACKGROUND WITHOUT PRACTICAL EXPERIENCE IN THE HANDLING OF EXTRADITION CASES. THEIR DRAFTING HAS BEEN BASED ON THEIR CODES AND, IN A NUMBER OF INSTANCES, PARTICULARLY WITH CHILE, ON WHAT THE PARTICULAR NEGOTIATORS CONSIDERED TO BE THE BEST "CASTILLANO" WHICH VARIES DEPENDING ON THE COUNTRY. DEPARTMENT VIEWS THE NUMEROUS MISALIGNMENTS IN THE CHILEAN DRAFT TEXTS TO BE DUE TO THE DESIRE ON THE PART OF THE PRIME CHILEAN NEGOTIATOR TO PUT HIS OWN STYLE INTO THE TREATY. (END FYI.)

6. IN ADDITION TO LANGUAGE CHANGES, POINTS RELATING TO TREATY DRAFTING HAVE BEEN MADE AND DEPARTMENT WOULD APPRECIATE BEING INFORMED AS TO HOW THESE WERE HANDLED BY GOC IN NEW TEXT GIVEN TO EMBASSY. IN PARTICULAR, THROUGHOUT SPANISH TEXT OF APRIL 29, THE "P" IN THE TERMS "PARTE REQUERIDA OR REQUERENTE" WAS NOT CAPITALIZED, NOR WAS THE "T" IN "TRATADO" OR THE "A" IN "ARTICULO." THESE POINTS APPEAR IN ARTICLES III AND V THROUGH XX.

7. IN VIEW OF THE SUBSTANTIAL NUMBER OF CHANGES IN THE SPANISH TEXT, DEPARTMENT, UNLESS EMBASSY PERCEIVES OBJECTION, WOULD PREFER THAT REVISED SPANISH TEXT BE TRANS-LIMITED OFFICIAL USE

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MITTED TO THE DEPARTMENT FOR REVIEW PRIOR TO SIGNING. NUMBER OF CHANGES IN ENGLISH LANGUAGE TEXT NOT SUFFICIENT TO WARRANT THIS PROCEDURE. INGERSOLL

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